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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

OCT - 2 1996

In re Application of

GERARD A. TURRO

For consent to the assignment of
the licenses of FM Translator
Stations W276AQ, Fort Lee, New
Jersey and W232AL, Pomona, New York

Federal Communications Commission
Office of Secretary

) MM 97-122
) File No.
) W276AQ - ~~W276AQ~~
) W232AL - ~~W232AL~~

TO: Roy J. Stewart, Chief
Mass Media Bureau

OPPOSITION TO PETITION TO DENY

1. Press Broadcasting Company, Inc. ("Press") hereby opposes the Petition to Deny filed by Universal Broadcasting of New York, Inc. ("Universal") with respect to the above-captioned applications. Those applications seek consent to the assignment of the licenses of two FM translator stations -- W276AQ, Fort Lee, New Jersey and W232AL, Pomona, New York -- from Gerard A. Turro to Press.

2. Universal's Petition refers to, and advances various arguments concerning, longstanding points of dispute between Universal and Mr. Turro. Press, a late-comer on the scene of this matter, has not previously been involved in those points of dispute and does not wish to involve itself at this time in them. Accordingly, Press does not intend to comment herein on matters not directly relating to Press.

3. With respect to Press, Universal seems to assert that, because Press is the licensee of three other full service radio stations in New Jersey, Press is ineligible to own any FM

translator outside of the protected coverage area of any of its stations. Universal's claim is based on a concern that "reciprocal service agreements" of some sort might be utilized by licensees seeking to circumvent the limits imposed by the Commission on use of translators to expand a primary station's service area. See FM Translator Stations, 73 R.R.2d 722, 727 (1993).

4. But Universal fails to note that the Commission did not absolutely prohibit ownership, by an FM licensee, of a translator station outside the protected service area of the licensee's main station. Id. To the contrary, FM translators may be licensed to, inter alia, "any qualified . . . broadcast station licensee". §74.1232(a). As Universal acknowledges, Press is a qualified broadcast licensee. Thus, Press is eligible to acquire the licenses of the translators in question.

5. The Commission's rules do bar (absent a waiver) the rebroadcast of a primary station's signal by a translator station located outside the primary station's protected coverage area, where the licensee of the translator is somehow "interested in or connected with" the licensee of the primary station. See §74.1232(d) of the Commission's Rules. But no such operation is proposed in these applications -- Press is not "interested in or connected with" either the licensee of Station WJUX(FM) or, for that matter, Mr. Turro and/or the program service he provides to Station WJUX(FM) -- and the prohibition set out in the rules thus is irrelevant to the instant transaction.

6. In the decision cited by Universal (i.e., FM Translator

Stations, supra), the Commission did state that it would be "reluctant" to grant "other-area" translator authorizations -- that is, situations in which a broadcast licensee seeks to own a translator outside the protected service area of its main station -- unless the applicant

states affirmatively that the translator is not sought as part of a reciprocal arrangement with another primary station, whereby the primary station [sic] seek translator authorizations in order to rebroadcast each other's signals.

Id. In the instant situation, Press has complied with that requirement. Press has expressly and explicitly certified that

[t]here is and will be no written or unwritten agreement under which Press or any person or entity affiliated with Press will be obligated to rebroadcast any given FM station over either or both of the translator stations which are the subject of this application.

See Exhibit to Assignee's Portion of FCC Form 345.

7. This certification appears to satisfy precisely the concerns articulated by the Commission, as it demonstrates that there are no agreements of any sort pursuant to which Press would be obligated to rebroadcast any particular station on either of the translators. If the Commission believes that any further assurance may be necessary or appropriate, Press stands ready to provide such assurance upon request by the Commission.

8. Finally, Universal suggests that the purchase price agreed to by the parties is "absurd on its face", Universal Petition at 6, ¶11. From that self-serving characterization, Universal then leaps to the wholly speculative conclusion that, as part of the transaction, Press "is also acquiring Turro's

programming service or some other commitment on the part of Turro to continue the current illegal scheme between WJUX and the FM translators." Id. In so doing, of course, Universal conveniently fails to acknowledge Press's specific and express certification that

Press's obligations to pay the purchase price for the translator stations will be unaffected by . . . the existence or non-existence of the network programming service presently offered by a company controlled by Gerard A. Turro. . . . Press's ability to fulfill its obligations under [its agreement with Mr. Turro] will be similarly unaffected by the identity of the stations rebroadcast by the translators or by the existence or non-existence of Mr. Turro's network programming service.

See Exhibit to Assignee's Portion of FCC Form 345.

9. Thus, again, Universal's Petition is based on nothing but self-serving speculation. There is absolutely no basis for that speculation, as the captioned application conclusively demonstrates. Accordingly, the arguments advanced by Universal concerning Press's eligibility must be rejected.

Respectfully submitted,


/s/ Harry F. Cole
Harry F. Cole

Bechtel & Cole, Chartered
1901 L Street, N.W.
Suite 250
Washington, D.C. 20036
(202) 833-4190

Counsel for Press Broadcasting
Company, Inc.

October 2, 1996

CERTIFICATE OF SERVICE

I, Harry F. Cole, hereby certify that on this 2d day of October, 1996, I have caused copies of the foregoing "Opposition to Petition to Deny" to be hand delivered (as indicated below) or placed in the United States mail, first class postage prepaid, addressed to the following individuals:

Roy J. Stewart, Chief
Mass Media Bureau
Federal Communications Commission
1919 M Street, N.W. - Room 314
Washington, D.C. 20554
(by hand)

Charles W. Kelley, Chief
Enforcement Division
Mass Media Bureau
Federal Communications Commission
2025 M Street, N.W. - Room 8202
Washington, D.C. 20554
(by hand)

Norman Goldstein, Chief
Complaints and Investigations
Branch
Mass Media Bureau
Federal Communications Commission
2025 M Street, N.W. - Room 8202
Washington, D.C. 20554
(by hand)

Stephen Barone, Esquire
Complaints and Investigations
Branch
Mass Media Bureau
Federal Communications Commission
2025 M Street, N.W. - Room 8202
Washington, D.C. 20554
(by hand)

Alan Aronowitz, Esquire
Complaints and Political Branch
Mass Media Bureau
Federal Communications Commission
2025 M Street, N.W. - Room 8210
Washington, D.C. 20036
(by hand)

Richard A. Helmick, Esquire
Cohn & Marks
1333 New Hampshire Avenue, N.W.
Suite 600
Washington, D.C. 20036
Counsel for Universal Broadcasting
of New York, Inc.

Arthur B. Goodkind, Esquire
Koteen & Naftalin
1150 Connecticut Avenue, N.W.
Washington, D.C. 20036
Counsel for Gerard A. Turro


/s/ Harry F. Cole
Harry F. Cole